

Senate Bill 433

By: Senators Meyer von Bremen of the 12th and Bowen of the 13th

**AS PASSED**

**A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the general provisions of penal institutions, so as to change certain provisions relating to the state sexual offender registry; to provide that persons required to be registered as sexual offenders must provide school name, enrollment status, and vocation information; to provide that this additional information be entered into the Georgia Crime Information Center data base; to provide that the Georgia Bureau of Investigation shall establish operating policies and procedures in order to provide prompt notice of offender registration to any law enforcement agency having jurisdiction where an institution of higher education is located; to provide punishments for violators; to require the Department of Education to provide all elementary and secondary schools with a list of registered sexual offenders and information on how to obtain a list of registered sexual offenders from the Georgia Bureau of Investigation's Internet website; to require the Office of School Readiness and the Department of Human Resources to provide child care and day-care programs with information on how to obtain a list of registered sexual offenders from the Georgia Bureau of Investigation's Internet website; to provide for related matters; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the general provisions of penal institutions, is amended in Code Section 42-1-12, relating to the State Sexual Offender Registry, is amended by striking in their entirety subsections (a) through (c) and subsection (h) and inserting in their respective places the following:

"(a) As used in this Code section, the term:

(1) 'Appropriate state official' means:

(A) With respect to an offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of

Chapter 8 of this title, relating to first offenders, the Division of Probation of the Department of Corrections;

(B) With respect to an offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee; and

(C) With respect to an offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee.

(2) 'Board' means the Sexual Offender Registration Review Board.

(2.1) 'Change in enrollment status' or 'change in employment status' means the commencement or termination of enrollment or employment.

(2.2) 'Change in vocation status' means the commencement or termination of a vocation.

(3) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. Unless otherwise required by federal law, a defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall not be subject to the registration requirements of this Code section.

(4)(A) 'Criminal offense against a victim who is a minor' with respect to convictions occurring on or before June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;
- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution; or
- (vii) Any conviction resulting from an underlying sexual offense against a victim who is a minor.

(B) 'Criminal offense against a victim who is a minor' with respect to convictions occurring after June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;

- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution;
- (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual medium depicting such conduct;
- (viii) Creating, publishing, selling, or distributing any material depicting a minor engaged in sexually explicit conduct;
- (ix) Transmitting, making, selling, buying, or disseminating by means of a computer any descriptive or identifying information regarding a child for the purpose of offering or soliciting sexual conduct of or with a child or the visual depicting of such conduct; or
- (x) Any conduct which, by its nature, is a sexual offense against a minor.

(C) For purposes of this paragraph, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(4.1) 'Institution of higher education' means a community college, state university, state college, or independent postsecondary institution.

(5) 'Mental abnormality' means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(6) 'Predatory' means an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(7) 'Sexually violent offense' means a conviction for violation of Code Section 16-6-1, relating to rape; Code Section 16-6-2, relating to aggravated sodomy; Code Section 16-6-4, relating to aggravated child molestation; or Code Section 16-6-22.2, relating to aggravated sexual battery; or an offense that has as its element engaging in physical contact with another person with intent to commit such an offense; or a conviction in a federal court, military court, tribal court, or court of another state or territory for any offense which under the laws of this state would be classified as a violation of a Code section listed in this paragraph.

(8) 'Sexually violent predator' means a person who has been convicted on or after July 1, 1996, of a sexually violent offense and who suffers from a mental abnormality or personality disorder or attitude that places the person at risk of perpetrating any future predatory sexually violent offenses.

1 (9) 'Vocation' means any sort of full-time, part-time, or volunteer employment with or  
2 without compensation exceeding 14 consecutive days or for an aggregate period of time  
3 exceeding 30 days during any calendar year.

4 (b)(1)(A)(i) On and after July 1, 1996, a person who is convicted of a criminal  
5 offense against a victim who is a minor or who is convicted of a sexually violent  
6 offense shall register within ten days after his or her release from prison or placement  
7 on parole, supervised release, or probation his or her name and current address; place  
8 of employment and vocation, if any; the crime of which convicted; school name and  
9 address, if any; and the date released from prison or placed on parole, supervised  
10 release, or probation with the appropriate sheriff's office as specified in subsection (c)  
11 of this Code section in the county where such person will reside for the time period  
12 specified in subsection (g) of this Code section.

13 (ii) A person who has previously been convicted of a criminal offense against a  
14 victim who is a minor or who has previously been convicted of a sexually violent  
15 offense and who is released from prison or placed on parole, supervised release, or  
16 probation on or after July 1, 1996, shall register within ten days after such release or  
17 placement his or her name and current address; place of employment and vocation,  
18 if any; the crime of which convicted; school name and address, if any; and the date  
19 released from prison or placed on parole, supervised release, or probation with the  
20 appropriate sheriff's office as specified in subsection (c) of this Code section in the  
21 county where such person will reside for the time period specified in subsection (g)  
22 of this Code section.

23 (iii) On and after July 1, 1999, any resident of Georgia who is convicted under the  
24 laws of another state or territory, under the laws of the United States, under the  
25 Uniform Code of Military Justice, or in a tribal court of a sexually violent offense or  
26 a criminal offense against a victim who is a minor shall register within ten days after  
27 his or her release from prison or placement on parole, supervised release, or  
28 probation. The information such an offender is required to register shall include his  
29 or her name and current address; place of employment and vocation, if any; the crime  
30 of which convicted; school name and address, if any; and the date released from  
31 prison or placed on parole, supervised release, or probation. Such an offender shall  
32 register with the appropriate sheriff's office as specified in subsection (c) of this Code  
33 section in the county where such person will reside for the time period specified in  
34 subsection (g) of this Code section.

35 (B) A person who is a sexually violent predator shall register within ten days after his  
36 or her release from prison or placement on parole, supervised release, or probation the  
37 information required under subparagraph (A) of this paragraph with the appropriate

1 sheriff's office as specified in subsection (c) of this Code section in the county where  
2 such person will reside. The sheriff may prepare a list of such sexual predators  
3 providing each person's name, address, and photograph. The sheriff shall update the list  
4 periodically and may post such list in a prominent and visible location in the sheriff's  
5 office and each city hall or primary administration building of every incorporated  
6 municipality within the county. Such list shall also be made available upon request to  
7 any public or private elementary, secondary, or postsecondary school or educational  
8 institution located in the county.

9 (2) (A) Upon a determination that an offender is guilty of a sexually violent offense,  
10 the court may request a report from the Sexual Offender Registration Review Board as  
11 to the likelihood that the offender suffers from a mental abnormality or personality  
12 disorder that would make the person likely to engage in a predatory sexually violent  
13 offense. The report shall be requested as a matter of course for any offender with a  
14 history of sexually violent offenses. The court shall provide the Sexual Offender  
15 Registration Review Board with any information available to assist the board in  
16 rendering an opinion. The board shall have 60 days from receipt of the court's request  
17 to respond with its report. After receiving a recommendation from the Sexual Offender  
18 Registration Review Board that a convicted sexually violent offender be classified as  
19 a sexually violent predator, the sentencing court shall so inform the offender and shall  
20 set a date to conduct a hearing affording the offender the opportunity to present  
21 testimony or evidence relevant to the recommended classification. After the hearing and  
22 within 60 days of receiving the report, the court shall issue a ruling as to whether or not  
23 the offender shall be classified as a sexually violent predator. If the court determines  
24 the offender to be a sexually violent predator, such fact shall be communicated in  
25 writing to the appropriate state official and to the Georgia Bureau of Investigation.

26 (B) The Sexual Offender Registration Review Board shall be composed of three  
27 professionals licensed under Title 43 and knowledgeable in the field of the behavior and  
28 treatment of sexual offenders; at least one representative from a victims' rights  
29 advocacy group or agency; ~~and at least one representative from~~ two representatives  
30 from law enforcement, each of whom is either employed by a law enforcement agency  
31 who is as a certified as a peace officer under Title 35 or retired from such employment.  
32 The members of such board shall be appointed by the commissioner of human  
33 resources for terms of four years. Members of the board shall take office on the first day  
34 of September immediately following the expired term of that office and shall serve for  
35 a term of four years and until the appointment of their respective successors. No  
36 member shall serve on the board more than two consecutive terms. Vacancies occurring  
37 on the board, other than those caused by expiration of a term of office, shall be filled

1 in the same manner as the original appointment to the position vacated for the  
2 remainder of the unexpired term and until a successor is appointed. Members shall be  
3 entitled to an expense allowance and travel cost reimbursement the same as members  
4 of certain other boards and commissions as provided in Code Section 45-7-21.

5 (C) The Sexual Offender Review Board shall be attached to the Department of Human  
6 Resources for administrative purposes and provided there is adequate funding provided  
7 shall:

8 (i) Exercise its quasi-judicial, rule-making, or policy-making functions independently  
9 of the department and without approval or control of the department;

10 (ii) Prepare its budget, if any, and submit its budgetary requests, if any, through the  
11 department; and

12 (iii) Hire its own personnel if authorized by the Constitution of this state or by statute  
13 or if the General Assembly provides or authorizes the expenditure of funds therefor.

14 (3) (A) If a person who is required to register under this Code section is released from  
15 prison or placed on parole, supervised release, or probation, the appropriate state  
16 official shall:

17 (i) Inform the person of the duty to register and obtain the information required under  
18 subparagraph (A) of paragraph (1) of this subsection for such registration;

19 (ii) Inform the person that, if the person changes residence address, employment  
20 address, ~~or vocation address, school name, school address, or enrollment status,~~ the  
21 person shall give the new address information to the sheriff or sheriffs with whom the  
22 person last registered and the sheriff or sheriffs of the county to which the person is  
23 changing residence address, employment address, vocation address, school name,  
24 school address, or enrollment status, not later than ten days after the change of ~~address~~  
25 information. Following such notification, the sheriff's office shall notify immediately  
26 the Georgia Bureau of Investigation through the Criminal Justice Information System  
27 (CJIS) of each change of address information;

28 (iii) Inform the person that the person must register in any state where the person is  
29 employed or carries on a vocation or is a student;

30 (iv) Inform the person that, if the person changes residence to another state, the  
31 person shall register the new address with the sheriff or sheriffs with whom the person  
32 last registered, and that the person shall also register with a designated law  
33 enforcement agency in the new state not later than ten days after establishing  
34 residence in the new state;

35 (v) Obtain fingerprints and a photograph of the person if such fingerprints and  
36 photograph have not already been obtained in connection with the offense that  
37 triggered the initial registration; and

1 (vi) Require the person to read and sign a form stating that the duty of the person to  
2 register under this Code section has been explained. A copy of this form and any other  
3 registration information furnished by the Department of Corrections shall be  
4 forwarded to the Georgia Bureau of Investigation.

5 (B) In addition to the requirements of subparagraph (A) of this paragraph, for a person  
6 required to register under subparagraph (B) of paragraph (1) of this subsection, the  
7 appropriate state official shall obtain the name of the person; descriptive physical and  
8 behavioral information to assist law enforcement personnel in identifying the person;  
9 known current or proposed residence addresses of the person; place of employment, if  
10 any; offense history of the person; and documentation of any treatment received for any  
11 mental abnormality or personality disorder of the person; provided, however, that the  
12 appropriate state official shall not be required to obtain any information already on the  
13 criminal justice information system of the Georgia Crime Information Center.

14 (C) The Georgia Crime Information Center shall create criminal justice information  
15 system network transaction screens by which appropriate state officials shall enter  
16 original data required by this Code section including residence address, school name,  
17 school address, enrollment status, and employment and vocation address and status.  
18 Screens shall also be created for sheriffs' offices for the entry of record confirmation  
19 data; employment; changes of residence, school, or employment; or other pertinent data  
20 and to assist in offender identification.

21 (D) Any person changing residence from another state or territory of the United States  
22 to Georgia who is required to register under federal law or the laws of another state,  
23 territory, or tribal authority or who has been convicted of an offense in another state,  
24 territory, or tribal authority which would require registration under this Code section  
25 if committed in this state shall comply with the registration requirements of this Code  
26 section. Such person shall register the new address and employment information with  
27 the appropriate sheriff of the county as specified in subsection (c) of this Code section  
28 not later than ten days after the date of establishing residency in this state. Upon the  
29 person's registration with the sheriff of the county of new residence, the sheriff or his  
30 or her designee shall forward the registration information to the Georgia Bureau of  
31 Investigation. The sheriff or his or her designee shall obtain any needed information  
32 concerning the registrant, including fingerprints and a photograph of the person if such  
33 fingerprints and photograph have not previously been obtained within the State of  
34 Georgia. In addition, the sheriff or his or her designee shall inform the person of the  
35 duty to report any change of address as otherwise required in this Code section. The  
36 Georgia Bureau of Investigation shall forward such information in the manner  
37 described in subsection (c) of this Code section.

(E) The following persons are also required to register:

(i) Any nonresident who enters this state for the purpose of employment for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year and who is required to register under federal law, military law, tribal law, or the laws of another state or territory, which, based on an act, would require registration under this Code section; or

(ii) Any nonresident who enters this state for the purpose of attending school as a full-time or part-time student and who is required to register under federal law, military law, tribal law, or the laws of another state or territory, which, based on an act, would require registration under this Code section.

Any person required to register by this subparagraph shall not later than ten days after the person enters the state register with the sheriff of the county of his or her temporary address, with the sheriff of the county of his or her employment, and with the sheriff of the county in which the person is attending school. The information registered shall include the person's temporary address, permanent address in the person's state of residence, employment and vocation address, ~~or~~ and school name, school address, and enrollment status. Upon the person's registration, the sheriff or the sheriff's designee shall forward the registration information to the Georgia Bureau of Investigation. The sheriff or the sheriff's designee shall obtain the fingerprints and photograph of the person, if the person's fingerprints and photograph have not previously been obtained in Georgia. The sheriff or the sheriff's designee shall inform the person of his or her duty to report any change in temporary residence, permanent residence, employment and vocation address, ~~or~~ and status, school name, school address, or enrollment status.

(c)(1) The appropriate state official shall, within three days after receipt of information described in paragraph (3) of subsection (b) of this Code section, forward such information to the Georgia Bureau of Investigation. Once the data is entered into the criminal justice information system by the appropriate state official or sheriff, the Georgia Crime Information Center, where appropriate, shall immediately notify the sheriff of the person's county of residence, either permanent or temporary, the sheriff of the county of employment, and the sheriff of the county where the person attends school. The Georgia Bureau of Investigation shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation. It shall be the duty of the sheriff of each county within this state to maintain a register of the names and addresses of all registered offenders within the sheriff's jurisdiction whose names have been provided by the Georgia Bureau of Investigation to the sheriff under this Code section. The Georgia Bureau of Investigation shall establish operating policies and procedures concerning record ownership, quality, verification, modification, and cancellation and shall perform



1 mail out and verification duties on a quarterly basis. The Georgia Bureau of Investigation  
2 shall send each month criminal justice information system network messages to sheriffs  
3 listing offenders due for verification. The bureau shall also create a photo image file from  
4 original entries and provide such entries to sheriffs to assist in offender identification and  
5 verification.

6 (2) Any person who is required to register under this Code section and who is enrolled,  
7 employed, or carries on a vocation at an institution of higher education in this state shall  
8 provide the name, address, and county of each institution including each campus attended  
9 and the person's position or enrollment status, as well as any change in enrollment,  
10 employment, or vocation status. This paragraph shall be accomplished in a manner  
11 specified in subparagraphs (b)(1)(A), (b)(1)(B), (b)(3)(A), (b)(3)(D), and (b)(3)(E) of this  
12 Code section.

13 (3) The Georgia Bureau of Investigation shall establish operating policies and procedures  
14 in order to provide prompt notice of offender registration and any change in status  
15 information contained in paragraph (2) of this subsection to any law enforcement agency  
16 having jurisdiction where an institution of higher education is located and to include  
17 notification to the campus police if appropriate for the institution of higher education.  
18 The law enforcement agency or agencies having jurisdiction where an institution of  
19 higher education is located shall provide a statement advising the campus community  
20 where law enforcement agency information may be obtained as provided by the state  
21 under 20 U.S.C. 1092 (f)(1) and 42 U.S.C. 1407 (j), concerning registered sex offenders.  
22 This information may be obtained at the law enforcement office of the institution, a local  
23 law enforcement agency with jurisdiction for the campus, or via the Georgia Bureau of  
24 Investigation's Web page."

25 "(h) Any person who is required to register under this Code section and who fails to  
26 comply with the requirements of this Code section or who provides false information shall  
27 be guilty of a ~~misdemeanor~~ felony and shall be punished by imprisonment for not less than  
28 one nor more than three years; provided, however, that upon the conviction of the second  
29 or subsequent offense under this subsection, the defendant ~~shall be guilty of a felony and~~  
30 shall be punished by imprisonment for not less than one nor more than three years or by  
31 a fine in an amount of up to \$100,000.00, or both."

## 32 SECTION 2.

33 Said Code section is further amended by inserting a new subsection (c.1) to read as follows:

34 "(c.1)(1) On an annual basis, the Department of Education shall obtain from the Georgia  
35 Bureau of Investigation a complete list of the names and addresses of all registered sexual  
36 offenders and shall send such list, accompanied by a hold harmless provision, to each

1 public elementary and secondary school in this state. In addition, the Department of  
2 Education shall provide information to each public elementary and secondary school in  
3 this state on how to access and retrieve from the Georgia Bureau of Investigation's  
4 Internet website a list of the names and addresses of all registered sexual offenders. The  
5 Department of Education shall make such information available to any private school  
6 upon request.

7 (2) The Office of School Readiness shall provide, on a one time basis, information to all  
8 child care programs regulated pursuant to Code Section 20-1A-5 on how to access and  
9 retrieve from the Georgia Bureau of Investigation's Internet website a list of the names  
10 and addresses of all registered sexual offenders and shall include, on a continuing basis,  
11 such information with each application for licensure.

12 (3) The Department of Human Resources shall provide, on a one time basis, information  
13 to all day care and group day care programs regulated pursuant to Code Section 49-5-12  
14 on how to access and retrieve from the Georgia Bureau of Investigation's Internet website  
15 a list of the names and addresses of all registered sexual offenders and shall include, on  
16 a continuing basis, such information with each application for licensure."

### 17 **SECTION 3.**

18 All laws and parts of laws in conflict with this Act are repealed.